

REMARKS/ARGUMENTS

I. General Remarks.

Applicants respectfully request that the above amendments be entered and further request reconsideration of the application in view of the amendments and the remarks contained herein.

II. Disposition of the Claims.

Claims 1-20 are pending. Claim 20 is amended herein.

On June 16, 2005, during a telephone conversation with the Examiner, claims 1-20 were elected in response to the Examiner's restriction requirement. Applicants hereby confirm this election. Claims 21-32 have been canceled due to the Examiner's restriction requirement.

All the above amendments are made in a good faith effort to advance the prosecution on the merits of this case. Applicants reserve their rights to take up prosecution on the claims as originally filed in this or an appropriate continuation, continuation-in-part, or divisional application.

III. Remarks Regarding the Objection to Claim 20.

The Examiner has objected to claim 20 because there is insufficient antecedent basis for the claim limitation "said hydraulic cement." (Office Action at 3.) Applicants have amended claim 20 to depend from claim 19 instead of from claim 10. Accordingly, Applicants respectfully request the removal of the objection. Moreover, Applicants respectfully submit that claim 20, as amended, is novel and nonobvious over the cited references, and respectfully request the timely issuance of a Notice of Allowance for this claim.

IV. Remarks Regarding the Rejection of Claims 1-2, 4-11, and 13-18 Under 35 U.S.C. § 102(b)

The Examiner has rejected claims 1-2, 4-11, and 13-18 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 6,302,209 issued to Thompson, Sr. et al ("*Thompson*"). With respect to *Thompson*, the Examiner states:

[*Thompson*] teaches in the abstract and in column 4, lines 42 -67 a method of mixing a polymer precipitation and coagulation preventing surfactant with said aqueous saline fluid solution and introducing the treating fluid into a subterranean zone. The reference also teaches that the aqueous saline fluid can be brine.

(Office Action at 3.)

To anticipate a claim, a reference must teach or suggest each and every claim limitation. *Manual of Patent Examining Procedure* § 2131 (8th ed., rev. 2, May 2004) (hereinafter “MPEP”). Since *Thompson* does not teach or suggest each and every limitation of claims 1-2, 4-11, and 13-18, Applicants respectfully submit that it does not anticipate these claims.

In particular, independent claim 1 recites the step of “combining said water-in-oil emulsion polymer with said aqueous saline fluid solution.” *Thompson* does not disclose this step. Instead, *Thompson* is directed to

[S]urfactant compositions comprising suspensions of solid surfactants. In particular, this invention relates to suspensions of a solid surfactant, such as an alpha olefin sulfonate, in an organic base fluid, such as diesel or vegetable oil. These suspensions may be optionally combined with additive materials, such as polymers, and/or with aqueous carrier fluids.”

(*Thompson*, Col. 1, ll. 14-19.) Thus, *Thompson* teaches that a solid surfactant organic suspension may be prepared that contains a solid surfactant and an organic base fluid. (*Thompson*, Col. 3, line 65 to Col. 4 line 2.) To this suspension, a polymer may be added to form a polymer-containing solid surfactant organic suspension. (*Thompson*, Col. 3, ll. 29-34.). This polymer containing solid surfactant organic suspension then may be combined with an aqueous carrier fluid to form a polymer-containing treatment fluid. (*Thompson*, Col. ll. 42-48.) With respect to the polymers, *Thompson* discloses that the polymer is an additive particle that may be suspended in the organic base fluid. (*Thompson*, Col. 4, ll. 29-31.) As such, *Thompson* does not teach or suggest the use of a water-in-oil emulsion polymer as recited in independent claim 1. *Thompson* thus does not teach or suggest the step of combining said water-in-oil emulsion polymer with said aqueous saline fluid solution as recited in independent claim 1.

Regarding independent claim 10, this claim recites the step of “preparing a treating fluid comprising an aqueous saline fluid, a polymer precipitation and coagulation preventing surfactant and a water-in-oil emulsion polymer.” Rather than disclosing this step, *Thompson* discloses that:

In another respect this invention is a method for forming a polymer-containing treatment fluid including combining polymer particles and a solid surfactant in an organic base to form a

polymer-containing solid surfactant suspension, and combining the polymer-containing solid surfactant suspension with an aqueous carrier fluid to form the polymer-containing treatment fluid.

(*Thompson*, Col. 1, ll. 14-19.) As discussed above with respect to independent claim 1, *Thompson* does not teach or suggest the use of a water-in-oil polymer in the preparation of the polymer-containing treatment fluid disclosed therein. Instead, *Thompson* discloses that the polymer is an additive particle that may be suspended in the organic base fluid. (*Thompson*, Col. 4, ll. 29-31.) Nor does *Thompson* teach the use of a polymer precipitation and coagulation preventing surfactant. *Thompson* thus does not teach or suggest the step of preparing a treating fluid comprising an aqueous saline fluid, a polymer precipitation and coagulation preventing surfactant and a water-in-oil emulsion polymer as recited in independent claim 10.

Therefore, Applicants respectfully assert that independent claims 1 and 10 are not anticipated by *Thompson*. Claims 2, 4-9, 11, and 13-18 depend either directly or indirectly on these independent claims. All these dependent claims, which include all the limitations of their corresponding independent claims, are allowable for at least the reasons cited above with respect to independent claims 1 and 10. Accordingly, the Applicants respectfully request withdrawal of this rejection with respect to claims 1-2, 4-11, and 13-18.

III. Remarks Regarding the Rejection of Claims 3 and 12 Under 35 U.S.C. § 103(a).

The Examiner has rejected claims 3 and 12 under 35 U.S.C. § 103(a) as obvious over *Thompson* in view of U.S. Patent No. 5,507,344 issued to Young et al ("*Young*"). Applicants respectfully traverse.

To establish a *prima facie* case of obviousness, the cited references must teach or suggest each and every claim limitation. See MPEP § 2142. Since the combination of *Thompson* and *Young* does not teach or suggest each and every claim limitation, Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness with respect to claims 3 and 12. See MPEP § 2142.

Claims 3 depends from independent claim 1. Independent claim 1 recites the step of "combining said water-in-oil emulsion polymer with said aqueous saline fluid solution." As discussed above with respect to the § 102(b) rejection, *Thompson* does not disclose this limitation. Nor can *Young* be used to supply this limitation. Thus, the combination of *Thompson* and *Young* does not teach each and every limitation of Applicants' invention and, consequently,

cannot be used to form the basis of a *prima facie* case of obviousness against claim 1. “If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.” See MPEP § 2143.03. Accordingly, dependent claim 3 is not obvious over *Thompson* in view of *Young*.

Claim 12 depends from independent claim 10. Independent claim 10 recites the step of “preparing a treating fluid comprising an aqueous saline fluid, a polymer precipitation and coagulation preventing surfactant and a water-in-oil emulsion polymer.” As discussed above with respect to the § 102(b) rejection, *Thompson* does not disclose this step. Nor can *Young* be used to supply this limitation. Thus, the combination of *Thompson* and *Young* does not teach each and every limitation of Applicants’ invention and, consequently, cannot be used to form the basis of a *prima facie* case of obviousness against claim 10. “If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.” See MPEP § 2143.03. Accordingly, dependent claim 12 is not obvious over *Thompson* in view of *Young*.

For the foregoing reasons, Applicants respectfully request withdrawal of this rejection with respect to claims 3 and 12.

IV. Remarks Regarding the Rejection of Claims 19-20 Under 35 U.S.C. § 103(a).

The Examiner has rejected claims 19 and 20 under 35 U.S.C. § 103(a) as obvious over *Thompson* in view of U.S. PG Pub. No. 2002/0096090 A1 (“*Chatterji*”). Applicants respectfully traverse.

To establish a *prima facie* case of obviousness, the cited references must teach or suggest each and every claim limitation. See MPEP § 2142. Since the combination of *Thompson* and *Chatterji* does not teach or suggest each and every claim limitation, Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness with respect to claims 19-20. See MPEP § 2142.

Claims 19 and 20 depend from independent claim 10, which recites the step of “preparing a treating fluid comprising an aqueous saline fluid, a polymer precipitation and coagulation preventing surfactant and a water-in-oil emulsion polymer.” As discussed above with respect to the § 102(b) rejection, *Thompson* does not teach or suggest this step. Nor can *Chatterji* be used to supply this limitation.

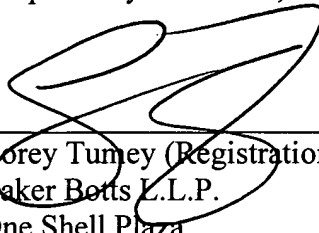
Thus, the combination of *Thompson* and *Chatterji* does not teach each and every limitation of Applicants' invention and, consequently, cannot be used to form the basis of a *prima facie* case of obviousness against claim 10. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." See MPEP § 2143.03. Accordingly, dependent claims 19-20 are not obvious over *Thompson* in view of *Chatterji*, and Applicants respectfully request withdrawal of this rejection with respect to claims 19-20.

SUMMARY

In light of the above remarks and amendments, Applicants respectfully request reconsideration and withdrawal of the outstanding objections and rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Applicants believe that there are no fees due in association with the filing of this Response. However, should the Commissioner deem that any fees are due, including any fees for extensions of time, Applicants respectfully request that the Commissioner accept this as a Petition Therefor, and direct that any additional fees be charged to Baker Botts L.L.P. Deposit Account No. 02-0383, (*formerly Baker & Botts, L.L.P.*), Order Number 063718.0880.

Respectfully submitted,



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